

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
ANDERSON/GREENWOOD DIVISION

Dominic M. Derricotte,)	
)	
Petitioner,)	
)	
vs.)	Civil Action No. 8:13-cv-02202-TLW
)	
Joseph McFadden, Warden of Lieber)	
Correctional Institution,)	
)	
Respondent.)	
)	
_____)	

ORDER

Petitioner, Dominic M. Derricotte, (“Petitioner”), brought this civil action, *pro se*, pursuant to 28 U.S.C. § 2254 on August 8, 2013. (Doc. # 1).

The matter now comes before this Court for review of the Report and Recommendation (“the Report”) filed on May 27, 2014 by United States Magistrate Judge Jacquelyn D. Austin, to whom this case had previously been assigned pursuant to the provisions of 28 U.S.C. § 636(b) and Local Civil Rule 73.02(B)(2)(d) (D.S.C.). (Doc. #18). In the Report, the Magistrate Judge recommends that this Court grant the Defendants’ Motion for Summary Judgment. (Doc. #11). Petitioner filed timely Objections to the Report on June 13, 2014. (Doc. #20).

This Court is charged with conducting a de novo review of any portion of the Magistrate Judge’s Report to which a specific objection is registered, and may accept, reject, or modify, in whole or in part, the recommendations contained in that report. 28 U.S.C. § 636. In conducting this review, the Court applies the following standard:

The magistrate judge makes only a recommendation to the Court, to which any party may file written objections...The Court is not bound by the recommendation of the magistrate judge but, instead, retains responsibility for the final

determination. The Court is required to make a *de novo* determination of those portions of the report or specified findings or recommendation as to which an objection is made. However, the Court is not required to review, under a *de novo* or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the Report and Recommendation to which no objections are addressed. While the level of scrutiny entailed by the Court's review of the Report thus depends on whether or not objections have been filed, in either case, the Court is free, after review, to accept, reject, or modify any of the magistrate judge's findings or recommendations.

Wallace v. Housing Auth. of the City of Columbia, 791 F. Supp. 137, 138 (D.S.C. 1992) (citations omitted).

In light of the standard set forth in Wallace, the Court has reviewed, de novo, the Report and the Petitioner's Objections. After careful review of the Report and Objections thereto, the Court **ACCEPTS** the Magistrate Judge's Report and Recommendation. (Doc. #18). Petitioner's § 2254 petition is denied and this case dismissed.

The Court has reviewed this petition in accordance with Rule 11 of the Rules Governing Section 2254 Proceedings. The Court concludes that it is not appropriate to issue a certificate of appealability as to the issues raised herein. Petitioner is advised that he may seek a certificate from the Fourth Circuit Court of Appeals under Rule 22 of the Federal Rules of Appellate Procedure.

IT IS SO ORDERED.

s/Terry L. Wooten
TERRY L. WOOTEN
Chief United States District Judge

July 23, 2014
Columbia, South Carolina